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Attorneys for Defendants  
CITY OF RICHMOND AND CHRISTOPHER MAGNUS

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

11	DEDRICK RILEY,	)	Case No. 3:13-cv-04752-MMC
		)	
12	Plaintiff,	)	<b>DEFENDANTS' REQUEST FOR</b>
13	vs.	)	<b>JUDICIAL NOTICE IN SUPPORT OF</b>
		)	<b>MOTION FOR JUDGMENT AS A</b>
14	THE CITY OF RICHMOND, a public	)	<b>MATTER OF LAW – FRCP 12(C)</b>
	entity, CHRISTOPHER MAGNUS, an	)	
15	individual, and DOES 1-50, inclusive,	)	Hearing Date: April 8, 2016
		)	Time: 9:00 a.m.
16	Defendants.	)	Courtroom: 7, 19 <sup>th</sup> Floor
		)	Judge: Hon. Maxine M. Chesney
17		)	
18		)	Complaint Filed: October 11, 2013
19		)	

Defendants CITY OF RICHMOND and CHRISTOPHER MAGNUS (“Defendants”), by and through their attorneys of record, hereby request this court take judicial notice of the court filings identified below and attached hereto.

Pursuant to Federal Rule of Evidence 201(b), a district court may take judicial notice of matters that are indisputable because they are capable of immediate and accurate verification through reliable sources. FRE 201(b). Judicial notice is the court’s recognition of the existence of a fact without the necessity of formal proof. *Castillo-Villagra v. I.N.S.*, 972 F.2d 1017, 1026 (9<sup>th</sup> Cir. 1992).

In considering a party's *res judicata* defense, a court may take judicial notice of motions and memoranda filed in a different lawsuit. *MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9<sup>th</sup> Cir. 1986). A court may also take judicial notice of the plaintiff's prior complaints and the orders dismissing them. *Commodity Futures Trading Comm'n v. Co. Petro Marketing Group, Inc.*, 680 F.2d 573, 584 (9<sup>th</sup> Cir. 1982). Doing so does not convert the Rule 12 motion into one for summary judgment. *Barron v. Reich*, 13 F.3d 1370, 1377 (9<sup>th</sup> Cir. 1994).

Therefore, pursuant to these authorities, Defendants request that judicial notice be taken of the following court filings:

**Riley I**

**A. Exhibit A** is a true and correct copy of the original Complaint filed on August 1, 2007 in the matter *Dedrick A. Riley v. City of Richmond et al.*, Contra Costa Superior Court Case No. C07-01753 ("*Riley I*").

**Riley II**

**B. Exhibit B** is a true and correct copy of the original Complaint filed on September 28, 2010 in the matter *Dedrick A. Riley v. City of Richmond et al.*, Contra Costa Superior Court Case No. C10-02843 ("*Riley II*").

**C. Exhibit C** is the First Amended Complaint filed on January 21, 2014 in *Riley II*.

**D. Exhibit D** is a true and correct copy of the City of Richmond's Notice of Motion and Motion for Summary Judgment or, in the Alternative, Summary Adjudication filed on June 1, 2015.

**E. Exhibit E** is a true and correct copy of the City of Richmond's Separate Statement of Undisputed Material Facts in Support of the City's Motion for Summary Judgment or, in the Alternative, Summary Adjudication.

**F. Exhibit F** is a true and correct copy of the Declaration of William Lindsay In Support of Defendant's Motion for Summary Judgment or Summary Adjudication.

**G. Exhibit G** is a true and correct copy of Plaintiff's Memorandum of Points and Authorities in Opposition to the City's Motion for Summary Judgment.

**H. Exhibit H** is a true and correct copy of Plaintiff's Separate Statement of Facts in Opposition to the City's Motion for Summary Judgment.

**I. Exhibit I** is a true and correct copy of the Reply Memo in Support of the City's Motion for Summary Judgment or, in the Alternative, Summary Adjudication.

**J. Exhibit J** is a true and correct copy of the City's Response to Plaintiff's Separate Statement of Facts.

**K. Exhibit K** is a true and correct copy of the September 21, 2015 Superior Court order granting summary judgment to the City.

**L. Exhibit L** is a true and correct copy of the Notice of Entry of Judgment and Judgment entered against Plaintiff.

**Riley III**

**M. Exhibit M** is a true and correct copy of the July 3, 2014 Third Amended Complaint in this action.

DATED: March 4, 2016

FOSTER EMPLOYMENT LAW

*/s/ C. Christine Maloney*

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C. CHRISTINE MALONEY  
Attorneys for Defendants  
CITY OF RICHMOND and  
CHRISTOPHER MAGNUS